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Measures to eliminate international terrorism

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Report of the Secretary-General

Addendum**

Summary

The present report has been prepared pursuant to General Assembly resolution 50/53 of 11 December 1995, entitled "Measures to eliminate international terrorism". The information contained herein has been submitted by States and international organizations.

* A/57/150.

** This addendum contains information received after 31 May 2002, the date, as indicated in the circular letter of 22 February 2002, by which information was requested to be received for inclusion in the report.

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II. Measures taken at the national and international levels regarding the prevention and suppression of international terrorism and information on incidents caused by international terrorism

1. The texts in this section describing measures taken by Member States and international organizations have been taken directly from the replies received from the respective Member States and international organizations.

A. Information received from Member States[1]

2. **Austria** noted that after the events on 11 September 2001 and in accordance with international obligations, a bill to amend the Penal Code by introducing new offences such as "financing of terrorism" (as set out in the International Convention for the Suppression of the Financing of Terrorism) and "terrorist group" (as defined in the European Union (EU) draft Framework Decision on combating terrorism) is currently before the Austrian Parliament. A general category entitled "terrorist crimes" will make existing penalties for certain offences more severe in the circumstances foreseen by the EU draft Framework Decision on combating terrorism.

3. Currently, before the aforementioned bill comes into force, Austrian criminal law does not explicitly define terrorism. Neither the Substantive Criminal Law nor the Law of Criminal Procedure provides for specific provisions relating to terrorism. Therefore, terrorist crimes would be classified according to the general elements of a crime within the Penal Code and the penal secondary laws.

4. As regards existing legislation, the crimes of air piracy (§185 Penal Code — *Strafgesetzbuch* StGB) and wilful interference with the safety of aviation (§186 Penal Code) could be classified as typical "terrorist" crimes. All other kinds of terrorism are covered by the Austrian Penal Code. As far as the Austrian jurisdiction is concerned, §64, paragraph 1, of the Penal Code provides that certain serious crimes committed abroad have to be prosecuted by the Austrian authorities independently from the penal law of the place of the crime.

5. Austria also indicated that the following provisions of its Penal Code (*the Strafgesetzbuch*) were of relevance for the prosecution of terrorist acts:[2]

§75. Murder;

§102. Abduction for extortion;

§173. Intentional endangering by explosives;

§185. Air piracy;

§186. Wilful interference with the safety of aviation;

§§249-251. Assaulting supreme representatives of the State;

§277. Criminal conspiracy;

§278. Criminal gang;

§278a. Criminal organization;

§279. Armed organization;

§280. Amassing of combat equipment.

6. Concerning the Law of Criminal Procedure, Austria indicated that §14, paragraph 1, of the Code of Criminal Procedure (*Strafprozessordnung* — StPO) provides for jury trials in the event of certain "political" offences (for example "armed associations", "subversive associations", etc.).

7. Further important provisions of the Code of Criminal Procedure relate to searching of a house and a person, seizure, telecommunications-surveillance, audio-visual surveillance of individuals by technical means and computer aided data cross-referencing. §§139-149 of the Code of Criminal Procedure lay out all the requirements for the approval of procedural measures by the competent court.

8. In addition, Austria stated that the Law on Extradition and Mutual Legal Assistance (*Auslieferungs-und Rechtshilfegesetz* — ARHG) contains some more relevant provisions. It takes into consideration that terrorist crimes also sometimes have a political character. §14 of the ARHG excludes extradition for purely political offences as well as for so-called relatively political offences.

9. "Relatively political crimes" are defined as crimes with underlying political motivations except in

cases where — considering all circumstances of an individual case, especially the type of crime committed, the means and methods which have been applied or which have been threatened to be applied or the gravity of the consequences resulting therefrom or of the intended consequences — the criminal character outweighs the political character of the offence. This provision is in line with article 3 of the Council of Europe Convention on Extradition and with most of the Austrian bilateral extradition treaties in force. According to §51, paragraph 1 (1) of the ARHG, this provision also applies to judicial assistance. Similar provisions are regularly contained in bilateral treaties on mutual legal assistance.

10. As regards international treaty obligations, upon ratification of an international, regional or bilateral treaty, such a treaty is considered to be part of Austrian law once it has entered into force. However, it has to be examined, to determine whether any of its provisions are self-executing, i.e., directly applicable by national authorities, and if so, which ones, and to determine to what extent it is necessary to enact specific enabling legislation.

11. With regard to the provisions on extradition and mutual legal assistance contained in international, regional and bilateral treaties relating to international terrorism, no enabling legislation is called for, as section 1 of the Austrian Act on Extradition and Mutual Assistance in Criminal Matters of 4 December 1979 provides that its provisions only apply in the absence of conflicting rules of applicable treaties. Consequently, such rules are directly applicable by national authorities.

12. The **Islamic Republic of Iran** provided information on the international anti-terrorism instruments to which it is a party.[3] It also indicated that it was in the process of ratifying the Organization of the Islamic Conference Convention on Combating International Terrorism and that it was seriously considering ratification of and adherence to the remainder of international instruments on combating international terrorism.

13. Furthermore, it was stated that there was no distinct law in the Islamic Republic of Iran on combating terrorism. However, there were a number of laws in place which criminalized acts of terrorism and prescribed sentences for the perpetrators of such acts. These laws were as follows:

- Islamic Sentencing Law of 1991 and 1996;
- Extradition of Criminal Act of 1960;
- Punishment of Perpetrators of Misdemeanors and Felonies against Other Countries Act of 1971;
- Entry and Residency of Foreign Nationals in Iran Act of 1921 and Amendments;
- Punishment of Trafficking of Unauthorized Individuals at Borders Act of 1988;
- Augmenting Punishment for Arms Trafficking and Armed Traffickers Act of 1969;
- Augmenting Countermeasures against Acts of Terrorism by United States Administration Act of 1989;
- Combating Narcotic Drugs Act of 1988 and Amendments;
- Punishment of Saboteurs in Iran's Oil Industry Act of 1959;
- Punishment of Saboteurs in Industries Act of 1959;
- Punishment of Saboteurs in Electricity, Water, Gas and Telecommunication Infrastructure Act of 1974;
- Punishment of Saboteurs of Aircraft Safety and Sabotage of Equipment and Facilities thereto Act of 1970;
- Punishment of Offences in the Railway Act of 1932;
- Iran's Atomic Energy Organization Act of 1974;
- Presidential Election of the Islamic Republic Act of 1985;
- Political and Professional Parties, Societies and Associations Act of 1981;
- Punishment for Smuggling of Goods and Foreign Currency Act of 1995.

14. Notwithstanding the above-mentioned laws, a comprehensive law on combating international terrorism is under preparation, which will be submitted for ratification to the Islamic Consultative Assembly in the near future.

15. Following the terrorist attacks in the United States of America on 11 September 2001 and in

response to the appeal made by the Security Council in accordance with its resolution 1373 (2001), the Islamic Republic of Iran has adopted a number of practical measures to ensure, among other things, the safety and security of civil aviation, increased security measures at its borders with a view to preventing the entry of terrorists into its territory, and to enhance checks and balances mechanisms in its banking system.

B. Information received from international organizations

1. United Nations system

16. The **International Civil Aviation Organization** (ICAO) indicated that in the wake of terrorist acts committed in the United States on 11 September 2001, ICAO Assembly at its 33rd Session, on 5 October 2001, adopted resolution A33-1, entitled "Declaration on misuse of civil aircraft as weapons of destruction and other terrorist acts involving civil aviation". Pursuant to that resolution, on 19 and 20 February 2002, the Council convened at ICAO headquarters, in Montreal, a high-level ministerial Conference on Aviation Security with the objectives of preventing, combating and eradicating acts of terrorism involving civil aviation; strengthening the role of ICAO in the adoption of security-related standards and recommended practices and procedures, and the audit of their implementation; and ensuring the necessary financial means for urgent actions by ICAO in the field of aviation security.

17. The Conference endorsed a global strategy for strengthening aviation security worldwide, adopted a number of conclusions and recommendations, and issued a public declaration. A central element of the strategy is an ICAO aviation security plan of action, which includes regular, mandatory, systematic and harmonized audits to enable the evaluation of aviation security in place in all ICAO Contracting States. The Plan of Action also includes:

(a) Identification, analysis and development of an effective global response to new and emerging threats, integrating timely measures to be taken in specific areas, including airports, aircraft and air traffic control systems;

(b) Strengthening of the security-related provisions in the annexes to the Convention on International Civil Aviation, using expedited procedures where warranted and subject to overall safety considerations, notably to provide for protection of the flight deck;

(c) Close coordination and coherence with audit programmes at the regional and subregional levels;

(d) Processing of the results by ICAO in a way which reconciles confidentiality and transparency;

(e) A follow-up programme for assistance, with rectification of identified deficiencies.

18. As regards technical security measures, ICAO recalled that amendment 10 to annex 17, "Security — Safeguarding of international civil aviation against acts of unlawful interference", had been adopted by the Council on 7 December 2001 and had become applicable on 1 July 2002. The amendment included the introduction of new provisions in relation to the applicability of the annex to domestic operations, international cooperation relating to threat information, the National Aviation Security Committee, national quality control, access control, passengers and their cabin and hold baggage, in-flight security personnel, protection of the cockpit, code-sharing/collaborative arrangements, human factors and management of response to acts of unlawful interference.

2. Other organizations

19. The **Council of Europe** provided the text of the Guidelines on Human Rights and the Fight against Terrorism, adopted on 11 July 2002, as well as the final activity report of the Group of Specialists on Human Rights and the Fight against Terrorism containing, inter alia, the reference texts used in the preparation of the guidelines.[4]

20. The **European Union** provided information to supplement its report on the implementation of Security Council resolution 1373 (2001).[5] The Union stated that it had made further progress with regard to judicial cooperation within EU. The crucial step forward in that regard had been the agreement reached on two binding Framework Decisions. The first concerned the creation of a European arrest warrant. The second, on combating terrorism, notably laid down that all EU member States must establish terrorist offences in their national law, as well as establishing serious criminal sanctions for those offences.

21. The Council had adopted the Framework Decision on the European arrest warrant and surrender

procedures between member States on 13 June 2002.[6] Consequently, EU member States had until 31 December 2003 to adapt their national legislation, and the European arrest warrant should then enter into force in the Union on 1 January 2004. A number of EU member States, however, had already undertaken to apply the European arrest warrant between them as from the beginning of 2003. Similarly, the Framework Decision on combating terrorism had been adopted by the EU Council on 13 June 2002.[7]

22. Another Framework Decision had moreover been elaborated, providing for automatic mutual recognition of "freezing" orders for evidence or assets between the EU member States. This would apply to freezing orders concerning all criminal offences where such a power was available under the domestic law of the issuing State, and it would apply in any case where terrorist offences were concerned.

23. In addition, there had also been a number of changes in provisions at the EU level for the freezing of funds and assets with a view to preventing the financing of terrorism. The measures currently in place corresponded to the following categories:

(a) Persons and entities whose funds or assets shall be frozen in accordance with Security Council resolutions 1267 (1999) and 1390 (2002), i.e. having a connection with al Qa'idah or the Taliban. The relevant act was Council regulation (EC) No. 467/2001, which was to be replaced by a new regulation in the near future;

(b) Persons and entities whose funds and assets shall be frozen in accordance with regulation (EC) No. 2580/2001. That category consisted of persons and entities which were involved in international terrorism or its financing, but were neither subject to the United Nations regime targeting al Qa'idah and the Taliban nor considered to be involved in terrorism or its financing deemed strictly internal to EU;

(c) Persons and entities whose funds or assets shall be frozen in accordance with legislation of one or more member States, either because EC legislation was awaited (see article 60 of the EC Treaty) or because they were involved in terrorism or its financing deemed strictly internal to EU.

24. The Union had moreover continued to move forward in the area of operational cooperation between law enforcement agencies and judicial authorities within EU. That was a relatively new area for EU, but one which had received a strong impetus since 11 September. Two initiatives in particular were concerned. The first was the creation of Eurojust, the European Judicial Cooperation Unit, which would seek to improve cooperation between national judicial authorities in EU. Eurojust had been formally created in March 2002. It would be able to conclude cooperation agreements with third countries. In addition, further steps have been taken by the European police agency, Europol, towards effective cooperation with the United States in particular.

25. Furthermore, the Council and the Commission were working on a number of proposals for legislative texts concerning issues relating to asylum procedures, the reception of asylum-seekers and the granting of refugee status. In all of these, security concerns would be enhanced or clarified where appropriate, and issues such as exclusion from refugee status would also be covered. The Council and the Commission were also continuing to work with member States, the European Parliament and other partners on the relationship between safeguarding internal security and complying with international protection obligations and instruments.

26. In addition to the above measures, which applied mainly within EU, the Union had made further progress in its efforts to promote effective counter-terrorism policies in other parts of the world, and notably to promote adherence to the key United Nations instruments in the field.

27. One of the tools in that regard was the use of the EU agreements with third countries. In that regard, the Union would seek to introduce counter-terrorism clauses in its agreements with third countries as a tool to combat terrorism. They would notably underline the importance of the fight against terrorism and the commitment of both parties to cooperate in the prevention and suppression of acts of terrorism, in particular in the framework of the full implementation of Security Council resolution 1373 (2001) and other relevant United Nations resolutions, international conventions and instruments.

28. Another dimension of the effort to help countries outside the Union implement United Nations instruments, notably resolution 1373 (2001), was the provision of technical assistance. In that regard, the Commission had established an inventory of the kind

of assistance which was already being provided in areas covered by resolution 1373 (2001), and of the kind of further assistance which would be possible, under the Commission's existing external assistance programmes. The Commission was already providing a certain amount of assistance facilitating the implementation of resolution 1373 (2001), and there was substantial scope within existing assistance programmes to provide further assistance.

29. The Commission attached great importance to the regional dimension of its assistance. It had thus had some experience, for example, on working with its partners in the Asia-Europe Meeting (ASEM) context on money-laundering, and looked forward to exploring how it could develop regional cooperation along those lines elsewhere. The Commission attached great importance to cooperating with the United Nations, and with the Counter-Terrorism Committee in particular, in establishing how it could further contribute to the global effort to ensure that all countries had the capacity to combat and prevent terrorism effectively.

30. The **Organization of American States** (OAS) indicated that, in response to the events of 11 September, its member States had established a Working Group to draft the Inter-American Convention against Terrorism, which was based on international conventions on the matter. The Convention, which had created a regulatory framework that enhanced the cooperation within the hemisphere in the area of new issues in the fight against terrorism, had been adopted and opened for signature at the OAS General Assembly in Barbados in June 2002.[8]

31. The Inter-American Committee Against Terrorism (CICTE), the specialized organ of OAS dealing with terrorism issues, had held its second regular session on 28 and 29 January 2002. The Committee currently had a full-time presence and a small secretariat to administer its activities. High-level participants from the member States had attended the second regular session to adopt the CICTE work plan for 2002-2003 and to present their reports on actions they had put into practice to halt international terrorism as a follow-up to the decision of the Ministers of Foreign Affairs at the twenty-third consultative meeting.

32. CICTE was currently developing an electronic database of expert points of contact, sample legislation and international conventions to support the efforts of member States to combat terrorism. The online database would enhance the exchange of information between States and the state of preparedness of the individual States.

IV. Information on workshops and training courses on combating crimes connected with international terrorism

33. The **International Civil Aviation Organization** indicated that it was continuing the development of its training programme for aviation security, consisting of a series of aviation security training packages designed for global application. To date, seven such packages had been completed and were available for sale and distribution throughout the international civil aviation community.[9] To assist in the implementation of the aviation security audit programme, ICAO was developing new training and guidance material on national quality control, system testing, auditors training, audit guidelines and forms for urgent distribution to all Contracting States. The purpose of the initiative was to provide States with the necessary training tools that would in turn assist them in developing the components of their national aviation security training programmes. Furthermore, to meet States' training requirements and to render assistance in the area of programme formulation, topic-focused seminars/workshops had been developed and were being conducted in all ICAO regions in the ICAO regional aviation security training centres in Amman, Brussels, Casablanca, Dakar, Kiev, Moscow, Nairobi, Penang, Port of Spain and Quito, under the mechanism for effective implementation of standards and recommended practices contained in annex 17 (Security) to the Chicago Convention. Thus far, over 210 training events had been organized for more than 4,200 participants.

34. The **Organization of American States** reported that the programme activities of the CICTE work plan for 2002-2003 contained specific recommendations for CICTE and for the OAS member States. Within the structure of the work plan, delegates directed CICTE, in cooperation with the Inter-American Development Bank and other international agencies, to conduct training and assistance programmes. The programmes and workshops should be intended for instructing

officials responsible for the fight against terrorism. Those efforts would focus initially on improving the capabilities of member States with respect to financial and border controls issues. As the programmes developed further, they would be made available to other members of the international community.

V. Publication of a compendium of national laws and regulations regarding the prevention and suppression of international terrorism in all its forms and manifestations

35. As at 13 September 2002, the Secretary-General had also received the text of laws and regulations from the Governments of Bahamas, the Dominican Republic, Malaysia and the Republic of Moldova.

Notes

[1] Information on the participation of States in multilateral agreements relating to the suppression of international terrorism is presented separately in section III.A of the main report (A/57/183). Additional information can be found in the reports which States have submitted to the Counter-Terrorism Committee of the Security Council. These reports can be found at www.un.org/Docs/sc/committees/1373.

[2] The full text, in German, of these provisions can be found at www.ris.bka.gv.at, section "*Abfrage Bundesrecht*". A summary in English is also available at the Codification Division of the Office of Legal Affairs.

[3] See A/57/183, sect. III.A.

[4] The texts are available at www.coe.int and at the Codification Division of the Office of Legal Affairs.

[5] S/2001/1297.

[6] 2002/584/JHA.

[7] 2002/475/JHA.

[8] For the text of the Convention, see www.oas.org.

[9] The packages are: 123/AIRLINE, 123/BASIC, 123/CARGO, 123/CRISIS MANAGEMENT, 123/INSTRUCTORS, 123/MANAGEMENT and 123/SUPERVISORS.